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C O N F I D E N T I A L SECTION 01 OF 03 MANILA 000333

SIPDIS

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TAGS: [PGOV](#) [PREL](#) [KDEM](#) [KJUS](#) [EAID](#) [ASEC](#) [RP](#)  
SUBJECT: ELECTION STUMBLING BLOCKS RAISE QUESTIONS

REF: A. MANILA 281 (PREPARATIONS ON TRACK)  
[1](#)B. MANILA 135 (MEETING WITH AQUINO)

Classified By: Charge d'Affaires, a.i. Leslie A. Bassett,  
reason: 1.4 (b) and (d).

SUMMARY

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[1](#)1. (C) Election controversies are an established tradition in the Philippines, and the 2010 national poll looks certain to feature its fair share. The country is embarking on an unprecedented effort to automate the vote nationwide, and Filipinos still face considerable hurdles in implementing this ambitious goal. Coincidentally, every office in the Presidential line of succession is up for grabs in this nationwide vote, and the Chief Justice of the Supreme Court is also set to retire amid haggling over whether President Arroyo has the right to appoint his successor. Unless the eventual presidential victor wins by a significant margin, it is possible the weeks following the election will see disputes and competing claims of victory. Nonetheless, as in the U.S. system, the Philippine President remains in office for many weeks following the election, providing breathing room to work on serious issues that may arise. Moreover, the recent inability of any political party or figure to duplicate the "people power" mass demonstrations of past years coincides with increasing professionalization of the military and police, institutions that currently seem to have lost their appetite for direct involvement in the political process. As the presidential race develops and the outlines of the result become clearer, it will be important for the U.S. and the international community to signal the need for close adherence to constitutional and legal practices, and to dampen the enthusiasm of any disappointed candidate who might want to take his fight to the streets rather than to the courts. End Summary.

I WAS ROBBED  
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[1](#)2. (C) A seasoned political observer here has noted that there are no losers in Philippine elections, only candidates who claim they had the election stolen from them. A combination of election manipulation and candidates' pride often leads to results being disputed before the Commission on Elections (COMELEC) and the courts. Indeed COMELEC in recent months reversed the outcome of three major 2007 races -- for two governorships and a congressional seat -- and Senator Loren Legarda, now running again for Vice President, only last year reluctantly gave up her battle to be declared the legitimate Vice President from the 2004 election.

[1](#)3. (C) There are legitimate reasons for candidates to complain. President Arroyo has been dogged since 2004 by a widespread belief that she colluded with COMELEC to ensure

she won the 2004 presidential election by a wide margin. Mindful of the long history of electoral irregularities in the Philippines, especially the manipulation of the vote count as results are transmitted to the capital, the country embarked on an extraordinarily ambitious plan to automate the 2010 election nationwide. While this plan held the promise of increasing the integrity of elections and reducing election-day violence, it also has spawned concern about the logistical, technological, and human factors involved in the transition.

#### AUTOMATION CONCERNS

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¶4. (C) The automated election equipment for this election consists of optical scanners manufactured by the SmartMatic company, which will scan and interpret a ballot with ovals shaded by the voters; the machines will tally the votes and then transmit results to COMELEC servers. Similar machines worked reasonably well in a regional election in Mindanao in ¶2008. An executive of U.S. firm SysTest (protect), contracted by COMELEC to test the current systems, recently told us that the SmartMatic systems appear able to function as intended (ref A). If these work properly on election day, they should provide results instantly accessible to the public via the internet.

¶5. (C) Early field testing showed that, while most SmartMatic machines worked as intended, some had difficulty scanning ballots or transmitting results. Experts are working to address the problems identified to date, but it is impossible

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that every machine will function flawlessly, or that polling station personnel will smoothly execute fallback plans when necessary. Meanwhile, COMELEC has much work remaining in educating voters about the new automated procedures at its planned 37,000 polling stations. Recent mock polls showed that voters needed nearly 12 minutes to fill out the complex machine-readable ballot, which requires special pens and ink, is 25 inches long, double-sided, and lists well over 250 candidates and parties. Some election experts expressed concern that voters, especially the elderly, will either err or choose not to vote out of fear of erring.

#### PRESIDENTIAL SUCCESSION AND THE "FAILURE" SCENARIO

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¶6. (C) The shift to automated systems has led some Filipinos to postulate a failure of the 2010 elections, with widespread malfunctioning of the SmartMatic machines (or electronic manipulation of the results) precluding a determination of election victors and necessitating a follow-on election. More fevered minds have voiced concern that President Arroyo would take advantage of such a crisis -- or even cause it -- in order to remain in office beyond the June 30 end of her term in office.

¶7. (C) The Constitution specifies that the line of presidential succession begins with the Vice President, followed by the Senate President and the Speaker of the House of Representatives. This year, however, all the aforementioned posts are up for reelection, and a total failure of elections might lead to a constitutional crisis. Thus, some in the Senate have argued that current Senate President Enrile should resign the Senate presidency in order that a Senator with a term lasting until 2013 could assume the position and ensure continuity of governance. (Enrile has shown no interest in this proposal.)

¶8. (C) Anxiety about a possible constitutional crisis has led observers to speculate about Supreme Court involvement. Current Supreme Court Chief Justice Reynato Puno faces mandatory retirement because of his age on May 17, and the constitution precludes President Arroyo from making appointments in the final two months of her term. (Some

Filipinos have questioned whether that provision covers judicial appointees.) The media has hypothesized about the political ramifications of a vacancy on the court, though legal observers suggest the Court could still function with an acting Chief Justice. Some of the debate over President Arroyo's right to appoint Puno's successor as Chief Justice may be connected to jockeying among Supreme Court Justices for the top position, rather than principled concern about election-related ramifications.

PUBLIC, SECURITY FORCES NOT PRIMED FOR ACTION  
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¶9. (C) While some leading candidates may be predisposed to believe and foster a perception that victory was rightfully theirs, it is not clear they can bring the public out into the streets in large enough numbers to change the outcome of a disputed election. Current Liberal party presidential candidate Benigno "Noynoy" Aquino III recalls well the success of his mother, Cory Aquino, in drawing upon "people power" to oust authoritarian President Marcos in 1986. And Noynoy Aquino has contemplated whether he might resort to mass demonstrations if he felt the election had been illegally manipulated (ref B). But the public has not appeared eager to change the Philippines' leadership through street protests, even though prodded repeatedly in recent years by some influential opponents of Arroyo. We attribute this in part to the Arroyo administration's success in providing an economic "safety valve" in the form of easy emigration for overseas employment, and also in helping to keep consumer staples affordable. Of equal importance, the security forces have made no significant attempt at mutiny since 2003 (although there have been more recent incidents of lesser import), and the military and police have not shown a notable inclination toward supporting any mass movement in favor of a particular candidate.

COMMENT  
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¶10. (C) We believe fears of an election failure and a succession crisis are overblown. As noted above, the SmartMatic machines appear reasonably reliable. And in the event of widespread problems on election day, the Philippine

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government and legislature remain in place for approximately seven weeks -- hopefully long enough time to devise and build consensus around a solution. Much of the tumult over a possible failed election can be written off to a penchant -- particularly among the media -- for political melodrama. Nevertheless, the Philippines' history of election fraud and political violence, as well as the technical hurdles involved in the automation effort, underscore the need for continued international efforts to help ensure a credible and transparent election process. Mission will continue its broad-ranging efforts with the International Foundation for Electoral Systems (IFES), The Asia Foundation, and the American Bar Association to provide COMELEC with technical assistance for managing automated election processes; to support election monitoring by NGOs; and to support the Philippine judiciary in anticipation of election protests. The Embassy, coordinating with other diplomatic missions, will conduct its own election observation effort with broad geographic coverage, to ensure we have credible, first-hand information about the election process as it takes place. And we will be prepared, in case of a crisis, to emphasize publicly the importance of all actors following constitutional and legal procedures to address whatever problems arise.  
BASSETT